

BOUTIN JONES INC.

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and Barrios Bros. Inc.*

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

BANK OF AMERICA, N.A., a national
banking association,

Plaintiff,

vs.

CAPITAL MED FARMS, LLC, a California
limited liability company; GOLDEN
STATE FARM CREDIT, FLCA, a federal
Farm Credit System institution; GOOD
EARTH PARTNERS LP, a California
limited partnership; JIM TRAYNHAM, an
individual; JAMIE TRAYNHAM, an
individual; MF FARMS, INC., a California
agricultural collective; NAVA FARMS,
INC., a California corporation; PACIFIC
REALTY ASSOCIATES, L.P. dba M&T
CHICO RANCH, a Delaware limited
partnership; RANDOLPH SALVESON, an
individual; SIERRA ORCHARDS, L.P., a
California limited partnership; and TSB
AG INC., a California Corporation;
AFFENTRANGER FARMS, LLC, a
California limited liability company;
ALLEN JASCHKE, an individual;
BARRIOS BROS., INC., a California
corporation; CHARLES HERMLE
FARMS, INC., a California corporation;
DANNA FARMS INC., a California
corporation; DARREL PARSLEY, an
individual; FEDORA FARMS, INC., a
California corporation; GRACIE BELLE

Case No. 2:24-cv-02309-DJC-CKD

**DEFENDANTS' RESPONSE TO BANK
OF AMERICA'S EVIDENTIARY
OBJECTIONS TO THE DECLARATION
OF MICHAEL J. KUZMICH**

Date: March 20, 2025

Time: 1:30 p.m.

Dept.: 10, 13th Floor

Judge: Hon. Daniel J. Calabretta

Complaint Filed: August 23, 2024

First Amended

Complaint Filed: September 27, 2024

1 FARMS, LLC, a California limited liability
 2 company; JERRY M. SEIBERT FARMS,
 3 INC, a California corporation.; JOE
 4 YEUNG FARMS, INC., a California
 5 corporation; JUST FARMS LP, a
 6 California limited partnership; LINDAUER
 7 FARM MANAGEMENT, INC., a California
 8 corporation; LLANO SECO MEATS ,LLC,
 9 a California limited liability company; M &
 10 C MYERS, INC. dba MYERS SEED, a
 11 California corporation; MARY
 12 TRAYNHAM, an individual; MUMMA
 13 BROTHERS, a general partnership; NOR
 14 CAL NUT CO, a California corporation;
 15 PB ORCHARDS, LLC, a California limited
 16 liability company; PEARSON FARMS, a
 17 general partnership; PUTAH CREEK
 18 FARMING CO., a California corporation;
 19 RIVER VISTA FARMS LLC, a California
 20 limited liability company; ROMINGER
 21 BROTHERS FARMS, INC., a California
 22 corporation; STRAIN FARMING JOINT
 23 VENTURE, L.P., a California limited
 24 partnership ;and ZANE AMARO d/b/a
 25 ZANE AMARO FARMS, an individual.

Defendants.

Defendants Nava Farms, Inc., Good Earth Partners, LP, Danna Farms Inc., Putah
 Creek Farming Co., Gracie Belle Farms, LLC, and Barrios Bros. Inc. (the "Boutin Jones
 Producers") briefly respond to the plaintiff Bank of America, N.A.'s ("BOA") Evidentiary
 Objections to the Declaration of Michael J. Kuzmich filed in support of the Motion to Dismiss
 BOA's First Amended Complaint for Declaratory Judgment on Grounds of Abstention or
 Pursuant to Federal Rules of Civil Procedure 12(b)(6) and (b)(7) or, in the alternative, Motion
 for Stay (the "Motion").

Response to Objection # 1 to Kuzmich Decl., ¶ 5

Plaintiff objects to ¶ 5 on grounds of relevance and improper legal argument.

These objections lack merit. This paragraph is neither irrelevant nor legal argument. It
 is an accurate summary of California's producer's lien laws. Notably, BOA does not attempt
 to argue that any portion of this summary is inaccurate.

For all of these reasons, these objections should be overruled. Regardless, in the event the Court sustains one or both of these objections, the ultimate outcome of the Motion is not dependent on this paragraph.

Response to Objection # 2 to Kuzmich Decl., ¶ 24

Plaintiff objects to ¶ 24 on grounds of relevance, lacks foundation and personal knowledge, and hearsay.

These objections lack merit. The Receiver has represented these matters to the parties, and they are relevant to this Motion. Notably, BOA does not attempt to argue that any portion of this information is inaccurate.

For all of these reasons, these objections should be overruled. Regardless, in the event the Court sustains one or more of these objections, the ultimate outcome of the Motion is not dependent on this paragraph.

Response to Objection # 2 to Kuzmich Decl., ¶ 25, Exhibit I

Plaintiff objects to ¶ 25 and Exhibit I¹ on grounds of relevance, lacks foundation and personal knowledge, and hearsay.

These objections lack merit. The Receiver's Report No. 1 was filed in the Golden State Tehama County Action, speaks for itself, and is relevant to this case. Specifically, Exhibit "A" to the Receiver's Report No. 1 reflects that: (1) between August 8 and September 30, 2024, ASSI had sales of \$15,399,167; (2) there is an entry titled "BofA LOC Adjustment" in the amount of \$14,561,723; and (3) ASSI had a resulting cash position of only \$2,482,652. Kuzmich Reply Decl., ¶ 3, Revised Exhibit I. Notably, BOA does not attempt to argue that any portion of this information is inaccurate. BOA also does not dispute that the "BofA LOC Adjustment" in the amount of \$14,561,723 was either paid in cash to BOA or applied as a credit to a line of credit.

¹ The wrong report (the Receiver's Initial Inventory and Report dated September 16, 2024) was inadvertently attached as Exhibit I, and the correct report (the Receiver's Report No. 1 dated November 6, 2024, and Exhibit "A" thereto) is being filed with this Reply Brief. See Reply Declaration of Michael J. Kuzmich filed herewith ("Kuzmich Reply Decl."), ¶¶ 2-3, Revised Exhibit I.

1 For all of these reasons, these objections should be overruled. Regardless, in the
2 event the Court sustains one or more of these objections, the ultimate outcome of the Motion
3 is not dependent on this paragraph and Exhibit.

4 **Response to Objection # 2 to Kuzmich Decl., ¶ 26**

5 Plaintiff objects to ¶ 26 on grounds of relevance, lacks foundation and personal
6 knowledge, and improper legal argument.

7 These objections lack merit. This paragraph states matters of fact that are relevant to
8 this Motion and which are based on counsel's personal knowledge: (1) the Receiver's Report
9 No. 1 dated November 6, 2024, and Exhibit "A" thereto reflect that BOA has received
10 proceeds from ASSI's sale of crops on which the Boutin Jones Producers have statutory lien
11 rights; (2) the Boutin Jones Producers will likely amend their Complaints to include causes of
12 action for conversion and unjust enrichment against BOA; and (3) the Downey Brand
13 Producers have already alleged these causes of action against BOA in the action they filed
14 in Tehama County.

15 For all of these reasons, these objections should be overruled. Regardless, in the
16 event the Court sustains one or more of these objections, the ultimate outcome of the Motion
17 is not dependent on this paragraph.

18 DATED: February 20, 2025

BOUTIN JONES INC.

19
20 By: /s/ Michael J. Kuzmich

21 Robert D. Swanson
22 Michael J. Kuzmich
23 Michael C. Hopkins

24 Attorneys for Defendants Nava Farms, Inc.,
25 Good Earth Partners, LP, Danna Farms Inc.,
26 Putah Creek Farming Co., Gracie Belle
27 Farms, LLC, and Barrios Bros. Inc.
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